

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Richmond Division)

MICHAEL T. DREHER, on behalf of himself *
and other similarly situated,

*

Plaintiff,

* Civil Action No.: 3:13-CV-140-JAG-DJN

v.

*

ATLANTIC REMODELING CORP.,

*

Defendant.

*

* * * * *

**MEMORANDUM IN SUPPORT OF EMERGENCY MOTION FOR LEAVE TO WITHDRAW
APPEARANCE OF COUNSEL AND REQUEST FOR 30-DAY STAY OF CASE**

Attorneys James T. Kimble, Brian L. Moffet, and the law firm of Gordon Feinblatt LLC submit this memorandum in support of their emergency motion¹ for leave to withdraw their appearance as counsel for Defendant Atlantic Remodeling Corp. and for a 30-day stay of the litigation to allow Atlantic Remodeling Corp. to retain new counsel and for its new counsel to learn the procedural and substantive history of the litigation. In support, Attorneys James T. Kimble, Brian L. Moffet, and the law firm of Gordon Feinblatt LLC state as follows:

1. Undersigned counsel was retained by Atlantic Remodeling Corp. to represent it in connection with the above-captioned putative class action lawsuit.
2. On behalf of Atlantic Remodeling Corp., undersigned counsel have actively litigated the claims asserted by Plaintiff. To that end, counsel for Atlantic Remodeling Corp. has filed an answer to

¹ Undersigned counsel asks this Court to treat the motion as an emergency motion because the issues raised in the motion need to be resolved promptly, to ensure that Atlantic Remodeling Corp. and Attorneys James T. Kimble, Brian L. Moffet, and the law firm of Gordon Feinblatt LLC are not prejudiced.

the complaint, participated in a scheduling conference that resulted in the scheduling of a settlement conference and trial and is currently engaged in discovery. More specifically, Atlantic Remodeling Corp.'s written discovery responses are due on July 8, 2013, depositions are scheduled for July 9, 10, and 16, 2013, a settlement conference is scheduled for August 13, 2013, and trial is scheduled to begin on September 18, 2013.

3. Pursuant to Local Rule 83.1(G), counsel may move the Court for leave to withdraw their appearance. Rule 1.16(b)(6) of the Virginia Rules of Professional Conduct, which governs the practice of law in this Court, provides that counsel may withdraw from a representation when "other good cause for withdrawal exists." Late in the evening on July 1, 2013, undersigned counsel determined that the attorney-client relationship with Atlantic Remodeling Corp. has deteriorated beyond the point of repair such that withdrawal of their appearance as counsel of record for Atlantic Remodeling Corp. is necessary. The attorney-client privilege prevents undersigned counsel from elaborating further on the reasons for their withdrawal.

4. In the morning of July 2, 2013, undersigned counsel communicated their intention to withdraw as counsel of record during a telephone conversation with Bert Lebhar, President of Atlantic Remodeling Corp. and followed up that telephone conversation with a letter informing Atlantic Remodeling Corp. of undersigned counsel's intention to withdraw as counsel to Atlantic Remodeling Corp. A copy of this motion was included in the letter.

5. Also on July 2, 2013, undersigned counsel advised Plaintiff's counsel of their intent to withdraw as counsel to Atlantic Remodeling Corp.² Plaintiff's counsel expressed a willingness to

² In addition to contacting opposing counsel, undersigned counsel called the Court and through a conversation with Judge Gibney's law clerk, communicated their intent to withdraw as counsel to Atlantic Remodeling Corp. That conversation precipitated the filing of this motion.

reschedule the depositions that are to take place over the next several weeks, but did not want to remove the depositions from the calendar without first securing alternative dates. Without knowing who Atlantic Remodeling Corp. intends to engage to represent it in this case and knowing that attorney's schedule, undersigned counsel was not willing to commit to any future scheduling.

6. In an effort to avoid any possible prejudice to Atlantic Remodeling Corp. that may flow from the withdrawal of undersigned counsel, Attorneys James T. Kimble, Brian L. Moffet, and the law firm of Gordon Feinblatt LLC respectfully request that the litigation be stayed for thirty (30) days from the date of this motion, to provide Atlantic Remodeling Corp. the opportunity to engage new counsel in this action

WHEREFORE, having complied with the requirements of Local Rule 83.1(G), Attorneys James T. Kimble, Brian L. Moffet, and the law firm of Gordon Feinblatt LLC respectfully request the following relief:

- A. That James T. Kimble, Brian L. Moffet, and the law firm of Gordon Feinblatt LLC be granted leave to withdraw their appearance of counsel for Atlantic Remodeling Corp.; and
- B. That the appearances of James T. Kimble, Brian L. Moffet, and the law firm of Gordon Feinblatt LLC as counsel for Atlantic Remodeling Corp. be stricken; and
- C. That the litigation be stayed for a period of thirty (30) days from the date the filing of this motion to allow Atlantic Remodeling Corp. to engage new counsel and for its new counsel to learn the procedural and substantive history of the litigation.

Respectfully submitted,

/s/

James T. Kimble (VSB No. 34581)
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of July, 2013, the foregoing Memorandum in support of Emergency Motion for Leave to Withdraw Appearance As Counsel and Request for 30-Day Stay of Litigation was filed electronically through the Eastern District of Virginia's case management/electronic case filing ("CM/ECF") system and sent to:

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